

REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-9, 11-13 and 15-19 are pending, Claims 1, 12, 15 and 16 having been amended, and Claims 10 and 14 having been canceled without prejudice or disclaimer.

In the outstanding Office Action Claims 1-15 and 19 were rejected as being unpatentable over Ohkubo et al. (U.S. 2003/0012195 A1) in view of Kumar (U.S. Patent No. 6,269,080); and Claims 16-18 were rejected as being anticipated by Ohkubo et al.

Applicants hereby perfect priority by filing an accurate translation of Japanese priority document JP2000-112700. This Japanese priority document filed on April 13, 2000, was prior to the effective U.S. filing date of Ohkubo et al. (PCT filing date April 4, 2001). Accordingly, it is respectfully submitted that Ohkubo et al. is not prior art with regard to the presently claimed invention.

Although the independent claims have been amended, these amendments have been made to make the language of the claimed invention more clear. It is believed that the claims as amended, not only find support in the present specification (see e.g., page 19, line 15 to page 21, line 12 and Figures 12 and 13, for example), but also patentably define over the asserted prior art. Moreover, with regard to Claim 1 for example, Claim 1 is directed to a retransmission control method and a multicast service providing system. The method includes three steps (a)-(c). Step (a) is for determining whether respective of the radio terminals within the service area is designated as a retransmission-permitted terminal permitted for retransmission of the multicast information. Step (b) is for notifying a retransmission designation status to the retransmission-permitted terminal, and delivering, when a request for retransmission of the multicast information sent from one of the radio terminals is received, the multicast information to said one of the radio terminals. In step (c)

the method includes a step of changing one of the radio terminals designated as being the retransmission-permitted terminal, to a retransmission-inhibited terminal which is not permitted for retransmission of the multicast information, based on a status of retransmission request received from the radio terminals.

In a non-limiting example, it is noted that the mobile stations within the service area that are placed in retransmission control are determined by any of a first through a fifth way (Figures 7-11). If the mobile stations do not benefit from the results of the retransmission control that is executed to the designated retransmission-permitted terminals, the base station (or information delivering apparatus) can change one of the mobile stations determined as being the retransmission-permitted terminal to a retransmission-inhibited terminal that is not permitted to retransmit the multicast information, based on the status of retransmission requests received from the mobile stations. An advantage of this approach is that it allows for a system to efficiently utilize the radio resources and improve the quality of mobile communications at the mobile stations within the service area of the bay station.

Turning to the prior art rejections, it is first noted that since Ohkubo et al. is not prior art with regard to Claims 1-15 and 19. Thus, the combination of Ohkubo et al. in view of Kumar does not create a *prima facie* case of obviousness, as all the elements of Claims 1-9, 11-13, 15 and 19 are not found in Kumar alone.

Likewise, as Claims 16-18 were rejected as being anticipated by Ohkubo et al., it is respectfully submitted that Claims 16-18 are patentable, since Ohkubo et al. is not prior art. Moreover, Claims 16-18 are neither anticipated nor rendered obvious by Kumar alone.

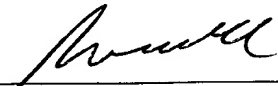
Consequently, in view of the present amendment and in light of the foregoing comments, it is respectfully submitted that the invention defined by Claims 1-9, 11-13 and 15-19, as amended, is patentably distinguishing over the prior art. The present application is

Application No. 09/832,895
Reply to Office Action of January 16, 2004.

therefore believed to be in condition for formal allowance and an early and favorable reconsideration of this application is therefore requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/03)
BDL/rac

Bradley D. Lytle
Attorney of Record
Registration No. 40,073

II:\ATTY\BDL\206006US\206006US-AM.DOC